

159.
07.04.2025
Bd.
Ct.29

**CRR 4509 of 2023
IA No. CRAN 1 of 2024**

**Raunaq Roy & Anr.
-vs-
The State of West Bengal & Anr.**

**Mr. Moyukh Mukherjee
Ms. Kishwarya Bazaz
Ms. Sarmistha Basak ...for the petitioners.**

**Ms. Baisali Ghoshal
Mr. Indranuj Dutta
Mr. Atanu Basu ... for the opposite party no.2.**

Mr. Suman De ... for the State.

This is an application wherein petitioners have prayed for quashing the proceeding being New Town P.S. Case No. 288 dated 14.09.2023 punishable under sections 448/342/323/427/506/34 of the Indian Penal Code.

Petitioner no. 1, is the son, and petitioner no. 2, is the wife of the defacto-complainant opposite party no. 2, who are residing in respective floors of the same building. Petitioners submit that they are innocent and are no way connected with the alleged offence. Their further case is that opposite party no. 2 used to torture petitioner no. 2 both physically and mentally and degree of torture increased from 2012 when construction of residential building started and petitioner no. 2 failed to fulfill the demand of dowry made by opposite party no. 2.

The petitioner no. 2 herein initiated one complaint which got registered as New Town P.S. Case No. 411/2021 dated 18.11.2021 under sections 498A/420/406 of the Indian Penal

Code read with section 3/4 of the Dowry Prohibition Act, against opposite party no. 2 herein, which is still pending for disposal.

Petitioners submit that present case of opposite party no. 2 is the counterblast of the said case. Petitioners further case is that the sole intention of the opposite party no. 2 is to siphon off money from petitioner no. 2 and since petitioner no. 1 did not succumb to his desire, he has also been falsely implicated. The complainant herein also allegedly transferred huge sum of money from the petitioners' bank account to his own account as it was under the control of opposite party no. 2.

It is further alleged that opposite party no. 2 herein had now stated resorting to different kinds of torture, whereby he and his sister prevented petitioner no. 2 from entering the kitchen and collecting drinking water and also started harassing the petitioners by locking the common terrace and obstructing the technicians from installation of internet connection. He further submits that the essential ingredients that are required to constitute aforesaid offences are totally absent in the present facts and circumstances of the case and accordingly prayed for quashing of the said proceeding.

Learned counsel appearing on behalf of the defacto-complainant raised strong objection contending that the investigation has already been culminated into a charge-sheet and from the charge-sheet it appears that the petitioners herein, who are accused were closely interrogated and on interrogation they admitted their guilt and made an apology and for which he did not arrest them. He further submits that they have filed Naraji

petition against the charge-sheet submitted by the Investigating Officer.

Learned counsel appearing on behalf of the State placed the case diary and leaves the matter to the discretion of the Court but submits that the statement of witnesses made under section 161 of Cr.P.C. corroborated the statement of FIR.

I have considered the submissions made by all the parties. On perusal of the FIR it appears that allegations leveled in the FIR is that complainant is a senior citizen and he is apprehending that on any day any untoward incident may take place within the said property at the behest of his son and he is also feeling insecure, frightened and fearful in presence of his son in the said property as the said son i.e., petitioner no. 1 herein is insisting heavily for executing deed in his favour in respect of the property owned by him.

On perusal of the materials collected during investigation it also appears that the police has recorded statement of three witnesses under section 161 of the Cr.P.C. which states that there is allegation that the opposite party no. 2 is the owner of the property and his son and wife are insisting him for transferring the said property in their favour and for which they are inflicting physical and mental torture upon him since 2018.

Therefore the contents of FIR and the other materials collected during investigation clearly indicates that the dispute is purely a personal one between the family members, which are more civil in nature. Previously petitioner no. 2 herein initiated one criminal proceedings and another case under the provisions

of Protection of Women from Domestic Violence Act, 2005 against the complainant herein.

In the case lodged under the Act of 2005, petitioner no. 2 herein already obtained restraint order against complainant herein from committing domestic violence upon opposite party no.2 herein along with right of residence in the shared household.

In my opinion there may be some little matrimonial and personal skirmishes and quarrels among the family members which does not warrant for criminal prosecution. This is also because a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. Except the bald statement that the petitioners inflicted torture as complainant refused to execute deed in their favour, nothing else indicating their involvement in the crime is mentioned. It is well-settled that in order to lodge a proper complaint, what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence and mere mention of the sections or language of those sections is not be all and end all of the matter. Under such circumstances, it would be an abuse of process of law to allow the instant prosecution to continue against the petitioners herein on the basis of vague and general complaint, which is completely silent about the precise criminal acts of the petitioners.

CRR 4509 of 2023 is hereby allowed and as such New Town P.S. Case No. 288 dated 14.09.2023 under sections 448/342/323/427/506/34 of the Indian Penal Code stands quashed.

However, this quashment order will not prevent the opposite party no. 2 from making appropriate prayer before the competent authority under the provision of Maintenance and Welfare of Parents and Senior Citizens Act, 2017, if advised subject to other provisions of law.

In view of disposal of the main application being CRR 4509 of 2023, the connected application being CRAN 1 of 2024 also stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)